

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MONTREZ IVELL DENNIS JACKSON,

CASE NO. 2:24-cv-02128-LK

Plaintiff,

## MINUTE ORDER

V.

THE KROGER CO. et al,

## Defendants.

The following Minute Order is made by direction of the Court, the Honorable Lauren King, United States District Judge:

The Court addresses Plaintiff Montrez Ivell Dennis Jackson's numerous declarations and affidavits, and certain related filings.

As a general matter, declarations and affidavits have one purpose—to provide factual support for factual assertions in motions and briefs. *See Fed. R. Civ. P. 7(a)–(b), 56(c); Fed. R. Evid. 602; 28 U.S.C. § 1746; LCR 7(b)(1); see also Moussouris v. Microsoft Corp.*, No. C15-1483JLR, 2018 WL 3328418, at \*10 (W.D. Wash. June 25, 2018) (content in a declaration other than factual assertions supported by personal knowledge “goes beyond what is appropriate for a

1 declaration”). They are not a procedurally proper way to amend a pleading, seek relief, or to  
 2 communicate with the Court. *See Fed. R. Civ. P. 7(a)–(b), 15(a)(2), LCR 7(b)(1).* When used in a  
 3 way that is “not allowed by the Federal Rules of Civil Procedure, the Local Rules of this Court, or  
 4 a direct order of this Court” a declaration becomes “a fugitive document and must be stricken from  
 5 the record.” *Johnson v. Holmes*, No. 2:18-CV-00647-GMN-EJY, 2020 WL 9065891, at \*1 (D. Nev.  
 6 June 12, 2020) (quotation marks omitted). Mr. Jackson is reminded to ensure that his filings are  
 7 procedurally appropriate, or else they will continue to be stricken or denied. Links to the federal  
 8 and local rules, along with resources for pro se litigants, were included in the Court’s prior minute  
 9 order. Dkt. No. 44 at 2.

10 **Dkt. Nos. 8, 9, 10, 11, and 12.** The Court STRIKES Mr. Jackson’s declarations in support  
 11 of his various claims at docket numbers 8 through 12 as procedurally improper. If Mr. Jackson  
 12 wishes to amend his complaint with additional or supporting facts, he should seek Defendants’  
 13 consent or leave of Court. Fed. R. Civ. P. 15(a)(2). For reasons explained below, Mr. Jackson may  
 14 no longer amend his complaint as of right.

15 **Dkt. Nos. 15 and 22.** The Court also STRIKES the declarations at docket numbers 15 and  
 16 22. They are not authorized by any applicable rule and are thus procedurally improper.

17 **Dkt. Nos. 13, 13-1, and 55.** The Court next STRIKES Mr. Jackson’s second and third  
 18 attempts at amending his complaint at docket numbers 13 (complaint attached at 13-1) and 55. Mr.  
 19 Jackson has already amended his complaint once, in state court prior to removal. Dkt. No. 1-4.  
 20 Rule 15 of the Federal Rules of Civil Procedure provides that a party may amend a pleading *once*  
 21 as a matter of right. Fed. R. Civ. P. 15(a)(1). In all other cases, “a party may amend its pleading  
 22 only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(2). Rule  
 23 15(a)(2)’s requirement that a party seek leave of court also governs amendment of pleadings in  
 24

1 actions removed from state court. *See Schnabel v. Lui*, 302 F.3d 1023, 1037 (9th Cir. 2002) (“When  
 2 a state court action is removed to federal court, the removal is treated as if the original action had  
 3 been commenced in federal court.”); *see also Pontikis v. Lucid USA Inc.*, No. CV-22-02061-PHX-  
 4 GMS, 2023 WL 6127693, at \*2 (D. Ariz. Sept. 19, 2023). Mr. Jackson did not obtain Defendants’  
 5 consent or seek leave of Court prior to filing his amended complaints at docket numbers 13, 13-1  
 6 and 55.

7 **Docket Nos. 67 and 69.** Because the Court strikes the amended complaint at docket  
 8 number 55, the Court DENIES AS MOOT Kroger’s renewed motion to dismiss. Dkt. No. 67. The  
 9 Court also STRIKES Mr. Jackson’s supplemental declaration in opposition to Kroger’s renewed  
 10 motion to dismiss as procedurally improper. Dkt. No. 69. Mr. Jackson already filed a response to  
 11 the motion at docket number 68; the local rules only permit parties one response to a motion, not  
 12 multiple. LCR 7(b)(2).

13 **Docket Nos. 56 and 59.** Next, the Court will construe Mr. Jackson’s affidavit filed at  
 14 docket number 56 as a response brief in opposition to Defendant Kroger Co.’s motion to dismiss.  
 15 But the Court STRIKES the declaration at docket number 59, which is styled as a declaration in  
 16 support of Mr. Jackson’s opposition to Kroger’s motion to dismiss, but contains argument that  
 17 should have been included in the response brief at docket number 56, and so functionally operates  
 18 as a second response brief.

19 **Docket Nos. 57 and 58.** The Court STRIKES the declarations at docket numbers 57 and  
 20 58 as procedurally improper. Both are styled as declarations in support of the amended complaint.  
 21 Mr. Jackson may not supplement his complaint with various supporting factual allegations  
 22 scattered across several subsequently filed declarations. If he wishes to amend his complaint, he  
 23 should obtain Defendants’ consent or seek leave of Court. Fed. R. Civ. P. 15(a)(2).

24

1       **Docket Nos. 62, 63, 64, and 65.** The Court will construe Mr. Jackson’s declaration filed  
 2 at docket number 62 as a reply in support of his motion to remand. The Court reiterates that the  
 3 proper course here is to file a reply brief in support of a motion, not a declaration. *See* LCR 7(b)(3).  
 4 The Court STRIKES the declarations at docket numbers 63 and 64, styled as declarations in  
 5 support of Mr. Jackson’s motion to remand, as duplicative and procedurally improper. These  
 6 declarations contain argument that should have been included in the reply brief at docket 62. The  
 7 Court also strikes the declaration at docket number 65, which appears to contain facts relevant to  
 8 the motion to remand and clarifications to the amended complaint. Any factual support for a  
 9 motion, opposition, or reply brief must be filed contemporaneously with the motion in only one  
 10 declaration signed by each person who has personal knowledge of such facts. *See* Fed. R. Civ. P.  
 11 7(a)–(b); Fed. R. Evid. 602; 28 U.S.C. § 1746; LCR 7(b)(1). Like the others, this declaration is  
 12 procedurally improper.

13       **Docket Nos. 14 and 66.** Finally, the Court DENIES Mr. Jackson’s motion to compel  
 14 discovery responses at docket number 66. The Court has already explained that this case is not in  
 15 the discovery phase yet. Dkt. No. 44; *see also* Dkt. No. 46 (declining to enter a scheduling order).  
 16 Future discovery-related motions that are filed prematurely will continue to be summarily denied,  
 17 and may also result in additional sanctions. And because this case is not in the discovery phase  
 18 yet, the Court STRIKES Mr. Jackson’s “discovery plan”—which is really a set of discovery  
 19 requests served on Defendants—at docket number 14. Even if this case were in discovery, the  
 20 filing would still be improper. “[D]iscovery requests and responses must not be filed unless they  
 21 are used in the proceedings or the court orders filing.” LCR 5(d). Accordingly, Mr. Jackson should  
 22 not file free-floating discovery requests on the docket; if they are relevant to a properly filed motion  
 23 that complies with applicable court rules, they should be attached to that motion.

24

1 To summarize, and for the reasons stated above, the Court STRIKES docket numbers 8–  
 2 15, 22, 55, 57–59, 63–65, and 69. The Court also DENIES the motions at docket numbers 66 and  
 3 67.

4 The Court cautions Mr. Jackson that it will no longer parse his nondescript declarations to  
 5 determine whether they should be construed as something else; it is Mr. Jackson’s responsibility  
 6 to file the correct documents in the correct form, as failure to do so deprives opposing parties of  
 7 fair notice and of a meaningful opportunity to respond. Mr. Jackson is reminded that pro se litigants  
 8 are subject to the same procedural requirements as other litigants. *Muñoz v. United States*, 28 F.4th  
 9 973, 978 (9th Cir. 2022). This entails strict compliance with applicable law, including but not  
 10 limited to the Federal Rules of Civil Procedure and Local Civil Rules. *See Chan v. Ryan*, No. 22-  
 11 CV-01796-LK, 2023 WL 197429, at \*4 (W.D. Wash. Jan. 17, 2023). Failure to comply with  
 12 applicable laws, rules, or orders may result in sanctions up to and including revocation of e-filing  
 13 privileges and dismissal of the case altogether. 28 U.S.C. § 1651(a); *see also Ghazali v. Moran*,  
 14 46 F.3d 52, 53–54 (9th Cir. 1995) (per curiam) (failure of pro se litigant to follow procedural rules  
 15 justified dismissal of civil rights action); *DeLong v. Hennessey*, 912 F.2d 1144, 1148 (9th Cir.  
 16 1990); *Shankar v. Microsoft Corporation*, No. C24-0308-JCC, 2024 WL 4664413, at \*1 (W.D.  
 17 Wash. Nov. 4, 2024) (revoking e-filing privileges after pro se plaintiff ignored Court’s directives  
 18 regarding proper filings).

19  
 20 Dated this 30th day of January, 2025.

21 Ravi Subramanian  
 22 Clerk

23 /s/Natalie Wood  
 24 Deputy Clerk